

# EXHIBIT D

NY2 - 1386132.1

**OFFICIAL**  
11/14/03 JWC

BB-OKT-2002 09:01

PROF. KROCZEK, RKI

S. 02

Express Mail No.: Hand Delivery**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of: Richard KroczeK

Confirmation No.: 7620

Application No.: 09/509,283

Group Art Unit: 1644

Filed: August 11, 2000

Examiner: J. Roark

For: ANTI-HUMAN COSTIMULATING T-CELL  
POLYPEPTIDE MONOCLONAL  
ANTIBODIES Attorney Docket No.: 7853-215**STATEMENT OF APPLICANT REGARDING PERMANENCE  
AND AVAILABILITY OF DEPOSITED MICROORGANISMS**Assistant Commissioner for Patents  
Washington, DC 20231

Sir:

I, Richard KroczeK, Applicant of the above-identified application, declare and state:

1. That hybridoma 8F4, secreting native monoclonal antibody 8F4, was deposited with the Deutsche Sammlung Von Mikroorganismen und Zellkulturen GmbH ("DSMZ"), at Mascheroder Weg 1b, D-3300 Braunschweig, Germany, on April 9, 2002, in compliance with the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure on my own behalf and on the behalf of the Bundesrepublik Deutschland, letztvertreten durch den Direktor des Robert-Koch-Institutes, having a place of business at Nordufer 20, D-13353 Berlin, Germany, present assignee of the application. The

NY2-1319333-1

BEST AVAILABLE COPY

08-OCT-2002 09:02

PROF. KROCZEK, RKI

S.03

deposited hybridoma was assigned DSMZ accession number DSM ACC2539. A copy of the Receipt of Deposit is attached hereto as Exhibit 1.

2. That I participated in and supervised the production and maintenance of the hybridoma designated 8F4 which was deposited with the DSMZ on April 9, 2002 and assigned DSMZ accession number DSM ACC2539.

3. That I confirm and corroborate that the hybridoma 8F4 deposited on April 9, 2002 with the DSMZ and assigned DSMZ accession number DSM ACC2539, which produces the monoclonal antibody 8F4, is the same hybridoma that was described in the specification of the above-identified application in Examples 1-8 at pages 11-19.

4. I hereby assure the United States Patent and Trademark Office and the public that

- (a) all restrictions on the availability to the public of the hybridoma referred to in paragraph 1 will be irrevocably removed upon issuance of a United States patent making reference to the hybridoma;
- (b) the hybridoma will be maintained for a period of at least five years after the most recent request for the furnishing of a sample of the deposited hybridoma was received by the DSMZ and, in any case for a period of at least 30 years after the date of deposit; (c) should the deposit become non-viable it will be replaced; and (d) access to the hybridoma will be available to the Commissioner during the pendency of the patent application or to one determined by the Commissioner to be entitled to the hybridoma under 37 C.F.R. § 1.14 and 35 U.S.C. § 122.

08-OCT-2002 09:03

PROF. KROCZEK, RK1

S.04

5. I declare further that all statements made in this Declaration of my own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

Date

October 8, 2002R. Kroczek

Richard Kroczek, M.D.

- 3 -

NY2-1399233.1